

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	MDL No. 1456
THIS DOCUMENT RELATES TO ALL CLASS ACTIONS	CIVIL ACTION: 01-CV-12257-PBS  Judge Patti B. Saris

---

**PLAINTIFFS' AND DEFENDANT BAXTER'S JOINT AGREED MOTION FOR  
EXTENSION TO TRACK II DISCOVERY SCHEDULE WITH RESPECT TO BAXTER**

Plaintiffs and Defendant Baxter jointly move this Court for an extension to the Track II Discovery Schedule with respect to Baxter. In support thereof, Plaintiffs and Baxter state as follows:

**I. THE PARTIES REQUEST AN EXTENSION OF THE DEADLINE FOR TRACK  
II DISCOVERY WITH RESPECT TO BAXTER TO SEPTEMBER 30, 2006.**

Currently pending before this Court is Plaintiffs' Motion To Compel The Production Of Documents From Baxter. The parties have conferred regarding the document production made to date by Baxter, Baxter's proposed rolling production of additional documents, and the depositions that will likely arise as Baxter undertakes the production of its documents.

Based on those discussions, Plaintiffs have agreed to withdraw their Motion To Compel Baxter's documents without prejudice contemporaneously with this Motion, based on the parties'

joint request to this Court to modify the Track II Discovery Schedule with respect to Baxter as follows:<sup>1</sup>

- final date for production of documents: June 1, 2006;
- final date for depositions of fact witnesses: September 30, 2006;
- Plaintiffs to file their expert reports on liability: November 15, 2006;
- Baxter to file its expert reports on liability: December 1, 2006;
- completion of expert depositions: December 30, 2006.

Baxter and Plaintiffs agree that this schedule provides sufficient time to conduct discovery given the number of documents which Baxter believes it has to produce with respect to the drugs at issue and given the breadth of discovery required by both parties to prepare the case for trial.

## II. CONCLUSION

For all of the foregoing reasons, Plaintiffs and Defendant Baxter respectfully request that this Court enter an order: a) granting the parties' Joint Agreed Motion For Extension To Track II Discovery Schedule With Respect To Baxter; and b) setting the discovery schedule with respect to Baxter as follows: (i) final date for production of documents: June 1, 2006, (ii) final date for depositions of fact witnesses: September 30, 2006; (iii) Plaintiffs to file their expert reports on liability: November 15, 2006; (iv) Baxter to file its expert reports on liability: December 1, 2006; (v) completion of expert depositions: December 30, 2006.

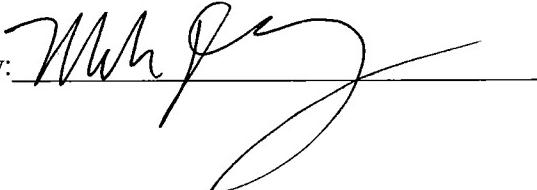
DATED: November 22, 2005

---

<sup>1</sup> Case Management Order ("CMO") No. 14 sets forth the following deadlines associated with discovery related to the Track Two Defendants:

- December 3, 2005: Close of Fact Discovery.
- January 15, 2006: Plaintiffs file their expert reports on liability.
- January 30, 2006: Defendants file expert reports on liability.
- March 15, 2006: Completion of expert depositions.

*On Behalf of Baxter*

By: 

*On Behalf of Plaintiffs*

By /s/ Steve W. Berman

Thomas M. Sobol (BBO#471770)  
Edward Notargiacomo (BBO#567636)  
Hagens Berman Sobol Shapiro LLP  
One Main Street, 4th Floor  
Cambridge, MA 02142  
Telephone: (617) 482-3700  
Facsimile: (617) 482-3003  
**LIAISON COUNSEL**

Steve W. Berman  
Sean R. Matt  
Robert F. Lopez  
Hagens Berman Sobol Shapiro LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Facsimile: (206) 623-0594

Elizabeth Fegan  
Hagens Berman Sobol Shapiro LLP  
60 W. Randolph Street, Suite 200  
Chicago, IL 60601  
Telephone: (312) 762-9235  
Facsimile: (312) 762-9286

Eugene A. Spector  
Jeffrey Kodroff  
Spector, Roseman & Kodroff, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 496-0300  
Facsimile: (215) 496-6611

Marc H. Edelson  
Allan Hoffman  
Hoffman & Edelson  
45 West Court Street  
Doylestown, PA 18901  
Telephone: (215) 230-8043  
Facsimile: (215) 230-8735

Kenneth A. Wexler  
Jennifer F. Connolly  
The Wexler Firm LLP  
One North LaSalle Street, Suite 2000  
Chicago, IL 60602  
Telephone: (312) 346-2222  
Facsimile: (312) 346-0022

Samuel D. Heins  
Alan I. Gilbert  
Susan E. MacMenamin  
Heins, Mills & Olson, P.C.  
3550 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402  
Telephone: (612) 338-4605  
Facsimile: (612) 338-4692  
**CO-LEAD COUNSEL FOR  
PLAINTIFFS**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	}) MDL No. 1456
THIS DOCUMENT RELATES TO ALL CLASS ACTIONS	}) CIVIL ACTION: 01-CV-12257-PBS }) Judge Patti B. Saris

---

**[PROPOSED] ORDER**

This matter coming before the Court on Plaintiffs' And Defendant Baxter's Joint Agreed Motion For Extension To Track II Discovery Schedule With Respect To Baxter;

It Is Hereby Ordered As Follows:

1. Plaintiffs' And Defendant Baxter's Joint Agreed Motion For Extension To Track II Discovery Schedule With Respect To Baxter is granted;
2. The Track II Discovery Schedule set forth in Case Management Order No. 14 is modified with respect to Baxter as follows:
  - (i) final date for production of documents: June 1, 2006;
  - (ii) final date for depositions of fact witnesses: September 30, 2006;
  - (iii) Plaintiffs to file their expert reports on liability: November 15, 2006;
  - (iv) Baxter to file its expert reports on liability: December 1, 2006;
  - (v) completion of expert depositions: December 30, 2006.

ENTERED: \_\_\_\_\_, 2005

---

Saris, J.

CERTIFICATE OF SERVICE

I, hereby certify that I, Merle M. DeLancey, counsel to Baxter Healthcare Corporation and Baxter International Inc., caused a true and correct copy of the foregoing PLAINTIFFS' AND DEFENDANT BAXTER'S JOINT AGREED MOTION FOR EXTENSION TO TRACK II DISCOVERY SCHEDULE WITH RESPECT TO BAXTER and [Proposed] ORDER to be served electronically on counsel of record pursuant to Paragraph 11 of the Case Management Order No. 2, by sending a copy to LexisNexis File and Service for posting and notification to all parties on November 22, 2005.

  
\_\_\_\_\_  
Merle M. DeLancey  
Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, N.W.  
Washington, D.C. 20037  
Tel: (202) 828-2282  
Fax: (202) 887-0689  
Counsel for Baxter Healthcare Corporation  
and Baxter International Inc.